

REMARKS

These Remarks are in reply to the Office Action mailed August 20, 2008. Claims 1-40 were pending in the Application prior to the outstanding Office Action. Supervisory Examiner Bashore is thanked for extending the courtesy of an interview on Monday November 3, 2008, at 11:00 AM PST. During the interview the Examiner and the Applicant discussed the proposed amendment to claim 1.

Claims 1-3, 13, 20, 23-26, 30, 34 and 38-40 have been amended. The amendment to Claims 2, 3, 20 and 34 corrects grammatical errors indicated by the Examiner. The amendments to claims 1, 13, 20, 23-26, 30, 34 and 38-40 are undertaken in order to more clearly delineate the subject matter boundaries of what is being claimed. The limitation introduced in Claim 1 is supported in the specification as filed at least at paragraphs [0037]-[0039], [0045], [0057], [0060], [0066], [0072], [0078]-[0079], [0088] and [0092]-[0099] and in Figures 5-7 and 13. The amendment to Claims 23, 24 and 30 are supported in the specification as originally filed, at least at paragraph [0047]. The amendment to Claims 26, 34 and 38 are supported in the specification as originally filed, at least at paragraphs [0043], [0044] and [0063]. The amendments to Claims 39 and 40 are supported in the specification as originally filed, at least at paragraph [0044].

Claims 1-40 remain for the Examiner's consideration. Reconsideration and withdrawal of the rejections are respectfully requested.

OBJECTIONS

The 'Carr' reference listed in the IDS submitted on April 9, 2004 included a hyperlink address "<http://eprints.ecs.soton.ac.uk/archive/00002643/01/WRWH.html>" and the entire contents of the hyperlink was included together with the 1449 form (which the Applicant has verified can be retrieved from PAIR). The hyperlink appears in the text in the bottom corner of the Carr article together with a release date present on the face page. The Applicant is not aware of any other reference to a hyperlink cited to the Examiner. The Applicant submitted the Carr article in attempting without admitting materiality to give the Examiner all information of which the Applicant was in possession, relevant to the patentability of any claims. 37 CFR 1.97(h).

The Applicant notes that the USPTO has made available a presentation by Wynn W. Coggins, of the USPTO under the rubric "WHAT CONSTITUTES PRIOR ART?" (see

<http://www.uspto.gov/web/menu/pbmethod/aip1afall02paper.htm>). The Coggins article states “[a]n electronic publication, including an on-line database or Internet publication, is considered to be a ‘printed publication’ within the meaning of 35 U.S.C. § 102(a) and (b) provided the publication was accessible to persons concerned with the art to which the document relates” Ibid. The Applicant notes that based on the release date on the face of the article, the article pre dates the Applicant’s submission date. Contrary to the suggestion of the Examiner, the Applicant does not intend to incorporate by reference the article under 37 CFR 1.57(d). Given the circulation of the Coggins article by the USPTO, the Applicant would like clarification on how the Examiner would like the Carr article cited in an IDS?

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 2, 3, 20 and 34-36 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2, 3, 20 and 34 have been amended. The Examiner is thanked for his careful reading of the claims.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the 112 rejections.

CLAIM REJECTIONS UNDER 35 U.S.C. § 101

Claim 38 is rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter, specifically directed towards Signals.

Claim 38 has been amended. The Examiner is thanked for his careful reading of the claims.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the 101 rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-13 and 15-41 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Riecken, “Adaptive Direct Manipulation” (hereinafter “Riecken”) in view of Nelson (U.S. Pub. No. 2004/0008635) (hereinafter “Nelson”).

Nelson was published January 15, 2004. The instant application was filed September 26, 2003. Accordingly, Nelson is not available to be considered as 102 or 103 prior art.

Claims 1 and 24

The Examiner states:

“Regarding Claim 1, Riecken discloses the claimed aspect of a method for displaying a representation of content, comprising: monitoring user behavior while interacting with a first representation of content; determining interaction information from the user behavior; maintaining the interaction information; and deforming a second representation of content using the interaction information, wherein Graphical user interface is adapted to the behavior and performance of a user by extending this design approach so as to provide a system with the ability to dynamically adapt its GUI based on the realtime behavior of a user, a system must be able to dynamically adapt the physical layout of interactive graphical objects based on a priori knowledge of the user's actual hand and the user's behavior of interaction with the respective graphical objects. (Riecken, Pages 1116, 1117, 1118, 1119, frequency, how often, recency)” (Office action, August 20, 2008, page 5, lines 1-11).

The Applicant respectfully submits that in the first five lines of the above text, the Examiner has simply restated all the limitations of Claim 1 with the exception that ‘content’ has been substituted for ‘digital content’ (the Examiner explains in the second paragraph on page 5, that digital content is taught by Nelson). The Applicant relies upon Nelson not being available to teach or suggest digital content to rebut the rejection.

The Applicant would also appreciate if the Examiner inform the Applicant where each of the other limitations are disclosed in Riecken. The Riecken article begins on page 1115 and ends on page 1120. Thus the Examiner is stating that all of the limitations are disclosed somewhere in 67% of the Riecken reference. The Applicant respectfully requests a clear explanation of where Riecken teaches each limitation of Claims 1, 24 and 30.

The Applicant respectfully submits that Riecken does not disclose, teach or suggest maintaining interaction information or deforming a second representation based on the interaction information. . . “In order to provide a complete application file history and to enhance

the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application”. MPEP 707.07(f).

The Examiner indicates that “...Nelson discloses the claimed aspect of digital content in a multi-participant conference system with controllable content (Nelson, Abstract, FIG. 14)” (Office action, August 20, 2008, page 5, lines 14-16).

Amended Claims 1, 24 and 30 include the limitations “deforming a second representation of digital content using the interaction information”, “deforming a second representation of digital content on a second device using the interaction information” and “maintaining the interaction information”. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest these limitations, Riecken does not teach or suggest all limitations of the claim. MPEP 2143.03. As such, amended Claims 1, 24 and 30 were not obvious at the time the invention was made.

Claim 30

Amended Claim 30 includes the limitation “monitoring user behavior while interacting with a first representation of digital content, wherein user behavior includes how often or how many times an area is interacted with or in what order a user interacts with the area”. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest this limitation, Riecken does not teach or suggest all limitations of the claim. As such, amended Claim 30 was not obvious at the time the invention was made

Claim 2

Amended Claim 2 includes the limitation “deforming a second representation includes deforming an active area of the second representation”. The Examiner notes that graphical objects are interactive and directs the Applicant to the Abstract of Riecken. No where in the abstract does Riecken teach or suggest an ‘active area’. At least Figure 5(b), and paragraphs [0037], [0048], [0107]-[0110], [0116], [0117], [0123], [0127], [0151] of the specification give examples and otherwise outline what the Applicant means by ‘active area’. Riecken indicates that ‘active graphical objects’ are maintained in a schema (page 1118, left column, line 35) and

the system functionality is based on ‘active graphical objects’ (page 1119, right column, line 37). Neither the reference to ‘active objects’ nor the reference to ‘interactive graphical objects’ teach or suggest deforming the ‘active area’ as defined by Applicant. Further, Riecken discloses “[r]eporting an active selection of a user in the active region” (Figure 15) and that

“[t]he set of all user initiated events refers to all user requested tasks communicated by a user's interaction with the GUI. The display manager KS posts each user initiated event and all information related to the user's interaction to the blackboard. This information includes both the identification of the graphical object(s) which was selected and data defining the accuracy of the selection. The accuracy data consists of a set of pixel coordinates representing the two-dimensional area physically touched by the user for each respective button selected” (page 1118, left column, third line from bottom - right column, line 10).

In contrast, the Applicant's ‘active area’ is not limited to a ‘two-dimensional area’ physically touched by the user. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest deforming a second representation includes deforming an active area of the second representation, Riecken does not teach or suggest all limitations of the claim. MPEP 2143.03. As such, Claim 2 was not obvious at the time the invention was made.

Claim 3

Amended Claim 3 includes the limitation “deforming a second representation includes deforming a layout of the second representation”. The Examiner directs the Applicant to the Abstract of Riecken. No where in the abstract does Riecken teach or suggest a layout. Riecken indicates in the body of the article that the system must be able to dynamically adapt the ‘physical layout’ (page 1116, left column, lines 12-14), the system also configures the ‘compositional layout’ (page 1117, left column, lines 33-34) and infers mappings based on the current ‘physical layout’ (page 1118, right column, lines 26-27). But these sections inferring or adapting the physical layout or configuring the compositional layout do not teach or suggest Applicant's deforming a layout of a second representation. At least paragraphs [0106]-[0109], [0115]-[0116] of the specification outline the Applicant's use of ‘deforming’ including examples of deforming. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest deforming a layout of the second representation, Riecken does not teach or suggest all limitations of the claim. MPEP 2143.03. As such, Claim 3 was not obvious at the time the invention was made.

Claims 4 and 20

Claim 4 includes the limitation “the first and second representation are of the same digital content”. Amended Claim 20 includes the limitation “the second representation is deformed without modifying the digital content”. The Examiner concentrates on the term ‘digital content’ and argues that this is taught either by Riecken or Nelson. Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest the first and second representation are of the same content or the second representation is deformed without modifying the content. As such, Claims 4 and 20 were not obvious at the time the invention was made.

Claim 5

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 5 was not obvious at the time the invention was made.

Claim 6

Claim 6 includes the limitation “wherein the second representation is scaled in relation to the first representation”. The Examiner indicates that Riecken discloses this limitation and cites to pages 1116, 1117 and 1118. A word search of Riecken indicates that there is no reference anywhere in the text to the words: ‘scale’, ‘scaled’, ‘reduce’, ‘magnify’ or ‘zoom’. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest the second representation is scaled in relation to the first representation, Riecken does not teach or suggest all limitations of the claim. As such, Claim 6 was not obvious at the time the invention was made.

Claim 7

Claim 7 includes the limitation “wherein the first representation is a representation of first digital content and the second representation is a representation of second digital content”. The Examiner indicates that Nelson discloses this limitation “... in FIG. 8, wherein different participants view different layout of the graphical representation with digital content.” (Office

action, August 20, 2008, page 7, last two lines). Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 7 was not obvious at the time the invention was made.

Claim 8

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 8 was not obvious at the time the invention was made.

Claims 9, 25 and 27

Claims 9, 25 and 27 include the limitations “determining interaction areas from the user interaction with the first representation”, “determining interaction information from the user interaction, the interaction information including an identification of at least one interaction area of the first representation or second representation” and “the interaction information is interaction information determined from interaction with a first representation of the digital content”. With respect to Claim 9, the Examiner indicates that Riecken discloses:

“... wherein Graphical user interface is adapted to the behavior and performance of a user by extending this design approach so as to provide a system with the ability to dynamically adapt its GUI based on the realtime behavior of a user, a system must be able to dynamically adapt the physical layout of interactive graphical objects based on a priori knowledge of the user's actual hand and the user's behavior of interaction with the respective graphical objects. (Riecken, Pages 1116, 1117, 1118, 1119, frequency, how often, recency)” (Office action, August 20, 2008, page 8, lines 6-12).

The Applicant respectfully submits that the ‘physical layout’ of ‘interactive graphical objects’ is not the same concept as the Applicant’s ‘interaction areas’. At least Figures 5a , 6 and 13, and paragraphs [0050]-[0068], [0079], [0090]-[0099], [0105]-[0113], [0116]-[0117], [0121], [0123], [0136], [0140], [0144], [0150] and [0153]-[0155] outline examples and otherwise define Applicant’s ‘interaction areas’.

With respect to Claim 25, the Examiner directed the Applicant to the rejection details for Claims 1, 2 and 9.

With respect to Claim 27, the Examiner directed the Applicant to the rejection details for Claim 20. The Applicant respectfully submits that the limitation of Claim 20 “the second representation is deformed without modifying the digital content” is distinct from the limitation

of Claim 27. The Applicant respectfully submits that one or more limitation of Claim 9 are related to one or more limitations of Claim 27 and thus the rebuttal of Claim 9 is relevant to Claim 27.

Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest determining interaction areas from the effect of the user interaction with the first representation, Riecken does not teach or suggest all limitations of the claim. As such, Claims 9, 25 and 27 were not obvious at the time the invention was made.

Claim 10

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 10 was not obvious at the time the invention was made.

Claim 11

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 11 was not obvious at the time the invention was made.

Claim 12

Claim 12 includes the limitation “wherein maintaining the interaction information includes maintaining the interaction information with an identification of the digital content from which the interaction information was determined”. The Examiner indicates that Riecken discloses

“...wherein the system keeps a relation between the graphical objects and user's behavior. (Riecken, Page 1116, 1117).” (Office action, August 20, 2008, page 9, lines 1-2).

The Applicant respectfully submits that the Examiner is misconstruing Riecken. A word search indicates that the word ‘relation’ appears as a prefix three times in Riecken. The word ‘relation’ is part of ‘relationship’ (page 1118, left column, seven lines from bottom), part of ‘relational’ (page 1118, right column, six lines from bottom) and part of ‘relationship’ (page 1119, right column, line 5). In none of these occurrences is there any teaching or suggestion of keeping or storing the ‘relationship’ or ‘relational’. A word search indicates that the prefixes ‘stor’ and ‘keep’ do not

occur in Riecken. Further, even if there was such a teaching or suggestion of storing in Riecken, the Applicant respectfully suggests that there is a significant difference between storing graphical objects and/or storing the user's behavior versus 'maintaining the interaction information with identification of the digital content from which the interaction information was determined'. To support a prima facie conclusion of obviousness, Office personnel must ensure that the written record includes findings of fact concerning the state of the art and the teachings of the references applied. MPEP 2141. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest determining interaction areas from the user interaction with the first representation, Riecken does not teach or suggest all limitations of the claim. As such, Claim 12 was not obvious at the time the invention was made.

Claim 13

Amended Claim 13 includes the limitations "determining interaction areas of the second representation corresponding to the first representation" and "deforming the corresponding interaction areas". The Examiner indicates that Riecken discloses:

"...wherein the second presentation is formed based on user's behavior. (Pages 1116, 1117, 1118, 1119, frequency, how often, recency)." (Office action, August 20, 2008, page 9, lines 7-9).

The Applicant respectfully responds that Riecken does not teach or suggest either determining interaction areas of the second representation corresponding to the first representation or deforming the corresponding interaction areas. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest these limitations, Riecken does not teach or suggest all limitations of the claim. MPEP 2143.03. As such, Claim 13 was not obvious at the time the invention was made.

Claim 26

Amended Claim 13 includes the limitations "identifying an interaction area determined to be of interest using observed user interaction which includes evaluating how often or how many times an interaction area is selected". Riecken does not teach or suggest this limitation. For Claim 26, the Examiner directs the Applicant to the rejection details for Claims 1, 13 and 9. The Applicant respectfully submits that Claims 9 and 13 do not include limitations directed to

deforming a representation of the digital content using the interaction information. While Claim 1 includes the limitation “ determining interaction information ...” the Examiner does not explain the basis for the rejection of that limitation in Claim 1 (see Applicant’s comments above). Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 26 was not obvious at the time the invention was made.

Claim 15

Claim 15 includes the limitations “wherein deforming the second representation includes applying an animation to areas of the second representation using the interaction information”. The Examiner indicates that Nelson discloses:

“...Riecken does not teach the claimed aspect of applying an animation to areas of the second representation using the interaction information, however Nelson discloses the claimed aspect, wherein video conferencing environment is illustrated. (Nelson, Abstract, FIG. 7, FIG.8).” (Office action, August 20, 2008, page 9, third paragraph, lines 3-7).

Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 15 was not obvious at the time the invention was made.

Claim 16

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 16 was not obvious at the time the invention was made.

Claim 17

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 17 was not obvious at the time the invention was made.

Claim 18

Claim 18 includes the limitations “determining an order in which interaction areas of the first representation are selected”. The Examiner indicates that Riecken does not disclose this limitation, but that it would be obvious to one of ordinary skill in the art at the time of the invention to rearrange the user interface accordingly for efficiency reasons. The Examiner does not explain what efficiency would result from determining an order in which interaction areas are selected. “In short, the focus when making a determination of obviousness should be on what a person of ordinary skill in the pertinent art would have known at the time of the invention, and on what such a person would have reasonably expected to have been able to do in view of that knowledge. This is so regardless of whether the source of that knowledge and ability was documentary prior art, general knowledge in the art, or common sense. What follows is a discussion of the Graham factual inquiries.” MPEP 2141. The Examiner is respectfully requested to explain what efficiency would result from the ordering alone, to identify a person of ordinary skill in the art and to set out how the Graham factual inquiry establishes a prima facie case.

Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest determining an order in which interaction areas of the first representation are selected, Riecken does not teach or suggest all limitations of the claim. As such, Claim 18 was not obvious at the time the invention was made.

Claim 19

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 19 was not obvious at the time the invention was made.

Claim 20

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 20 was not obvious at the time the invention was made.

Claim 21

Claim 21 includes the limitation “maintaining the interaction information comprises storing the interaction information at at least one of a client-side device, a server, and a proxy server”. The Examiner indicates that Riecken discloses this limitation and cites to pages 1115, blackboard technology. A word search of Riecken indicates that there is no reference anywhere in the text to the words: ‘client’, ‘side’, ‘server’ or ‘proxy’. The word ‘device’ appears once in the sentence “[w]ith the evolution of graphical technologies, interactive graphical interfaces are replacing physical control panels across all forms of tools, machines, appliances, and other such devices; in the future, navigation of an automobile might be supported by a matrix of graphical objects and voice commands along with other “intelligent” sensors and expert system technologies”. (Riecken, page 1115, right column, first full paragraph, last sentence). The Applicant respectfully requests that the Examiner explain where in Riecken’s blackboard technology this limitation is taught or suggested. Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest storing the interaction information at at least one of a client-side device, a server, and a proxy server, Riecken does not teach or suggest all limitations of the claim. As such, Claim 21 was not obvious at the time the invention was made.

Claim 22

Claim 22 includes the limitation “adding the interaction information to a file containing data for the digital content”. The Examiner indicates that Riecken discloses this limitation:

“... wherein the user behavior and the related content is kept together. (Riecken, Page 1118).” (Office action, August 20, 2008, page 12, second paragraph, lines 4-5).

A word search of Riecken indicates that there is no reference anywhere in the text to the word: ‘file’ (the letters ‘file’ appear three times in the word profile). The word ‘together’ appears once in the sentence “[k]nowledge of finger dexterity defines specific combinations of fingers which best perform together due to the anatomical properties of the human hand”. (Riecken, page 1118, right column, last sentence). The Applicant respectfully requests that the Examiner explain where in Riecken this limitation is taught or suggested.

Since Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest storing the interaction information at at least one of a client-side device, a

server, and a proxy server, Riecken does not teach or suggest all limitations of the claim. As such, Claim 22 was not obvious at the time the invention was made.

Claim 23

For Claim 23, the Examiner indicates that Nelsen discloses this limitation:

“...in FIG. 15, wherein user activity is monitored 224 and in FIG. 8, wherein different interface layout is illustrated for each use” (Office action, August 20, 2008, page 12, second paragraph, lines 4-5).

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of the claim. As such, Claim 23 was not obvious at the time the invention was made.

Claims 31, 34 and 38-40

With respect to Claims 31, 34 and 38-40 the Examiner directed the Applicant to rejection details for Claims 1, 2, 3 and 11 for Claim 31 and Claims 1, 2, 3 for Claims 34 and 38-40. Given that Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of these claims, Claims 31, 34 and 38-40 were not obvious at the time the invention was made.

Claims 24-29, 32, 33 and 35-37

Nelson is not available to be considered as 102 or 103 prior art and Riecken does not teach or suggest all limitations of these claim. As such, Claims 24-29, 32, 33 and 35-37 were not obvious at the time the invention was made.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claim 14 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Riecken, “Adaptive Direct Manipulation” (hereinafter “Riecken”) in view of Nelson (U.S. Pub. No. 2004/0008635) (hereinafter “Nelson”) in further view of Robertson, “The Task Gallery: A 3D Window Manager”.

Claim 14

Nelson is not available to be considered as 102 or 103 prior art and Riecken and Robertson do not teach or suggest all limitations of the claim. As such, Claim 14 was not obvious at the time the invention was made.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the 103 rejections.

CONCLUSION

In light of the above, it is respectfully requested that all outstanding rejections be reconsidered and withdrawn. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this reply, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: November 20, 2008

By: /Anthony G. Craig/
Anthony G. Craig
Reg. No. 50,342

FLIESLER MEYER LLP
650 California Street, 14th Floor
San Francisco, CA 94108
Telephone: (415) 362-3800
Facsimile: (415) 362-2928
Customer No. 23910